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**IN THE UNITED STATES COURT
FOR THE DISTRICT OF WYOMING**

| | | |
|---------------------------------------|---|---------------------------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| MICHAEL J. PLAKE, d/b/a/ Plake |) | |
| and Associates, |) | Criminal No. 12-CR-81-1F |
| |) | |
| and |) | |
| |) | |
| PAUL D. CARDWELL, |) | |
| |) | |
| Defendants. |) | |

JOINT MOTION TO VACATE AND CONTINUE SENTENCING AND ARRAIGNMENT DATE

COMES NOW Defendant Michael J. Plake, by and through his retained counsel Sean H. Barrett, and counsel for the government, Assistant United States Attorney, Ms. Lisa Leschuck, and hereby jointly move the Court for its order VACATING defendant's sentencing and arraignment dates, both currently set for February 25, 2013 at 8:30 a.m. and CONTINUING the same to a later date and time convenient to the Court and respective parties and as GROUNDS THEREFORE advises as follows:

1. On November 8, 2012 Defendant Plake was indicted in the United States District Court for the Northern District of Indiana with one count of Conspiracy To Commit Mail Fraud in violation of 18 U.S.C. §1341 and §1349; the underlying alleged conduct in the Northern District of Indiana appears substantially related to those charges for which Defendant Plake has pled guilty in the above-captioned matter and for which a February 25, 2013 sentencing date has been set.
2. On January 8, 2013, and pursuant to F.R.Cr.P. Rule 20, Transfer for Plea and Sentence, Defendant Plake consented to a transfer of jurisdiction of the Northern District of Indiana mail fraud conspiracy count to the District of Wyoming, indicated his desire to plead guilty to that count following its transfer to the District of Wyoming, waived trial as to that count in the Northern District of Indiana and consented to disposition of the matter in the District of Wyoming.
3. Following the Rule 20 consent to transfer for plea and sentence this Court scheduled defendant for an arraignment on the same date and time as defendant's sentencing hearing in the above-captioned matter, February 25, 2013 at 8:30 a.m.
4. Counsel for defendant and the United States have mutually concluded that a single, global disposition of both the Northern District of Indiana and District of Wyoming matters at a single sentencing hearing would be the most effective, efficient and logical disposition.
5. Counsel for defendant has discussed a global disposition with Mr. Thomas Fitzgerald, United States Probation Officer assigned to prepare defendant's Presentence Investigation Report in the above-captioned matter.

6. As of the February 13, 2013, the U.S. Probation Office had yet to receive requested discovery from the District of Northern Indiana however Assistant U.S. Attorney Ms. Lisa Leschuck has received discovery and will provide a copy thereof to Mr. Thomas Fitzgerald; counsel for Defendant Plake received discovery from the Northern District of Indiana U.S. Attorney's Office on February 13, 2013; further, the United States Probation Office necessarily needs such information for purposes of preparing a Presentence Report.
7. The information contained in the discovery from the Northern District of Indiana necessarily requires thorough review by each party to the sentencing hearing in order to allow each party a reasonable opportunity to assess the exact nature and extent of the defendant's relevant conduct in the Northern District of Indiana, assess the impact of such relevant conduct upon defendant's relevant conduct calculations in the District of Wyoming and provide this Court with an informed and appropriate disposition recommendation at the time of sentencing.
8. Counsel for defendant has inquired with the U.S. Attorney's Office, U.S. Probation Office and family members of Defendant Plake who wish to appear at defendant's sentencing hearing and it appears that a sentencing and arraignment date no earlier than May 2013 date would be most beneficial to avoid potential conflicts, allow parties to the sentencing hearing an adequate opportunity to review the discovery received from the Northern District of Indiana and prepare for sentencing.

WHEREFORE, it is respectfully requested that Defendant Plake's sentencing and arraignment dates, both set for February 25, 2013, at 8:30 a.m. be VACATED and CONTINUED

to a later date and time mutually convenient to the Court and counsel of the respective parties however it is further requested that such date be no earlier than May 2013 so as to allow all the respective parties a reasonable opportunity to review the recently received information as contained in the discovery from the District of Northern Indiana, provide the Court with an informed sentencing recommendation at the time of sentencing and avoid potential scheduling conflicts among the parties to the hearing.

DATED this 18th day of February, 2013.

By: /s/ Sean H. Barrett
For Sean Barrett and Ms. Lisa Leschuck

CEERTIFICATE OF SERVICE

The undersigned certifies that on this 18TH day of February, 2013, a true and correct copy of the foregoing document was served upon Counsel of Record via CM/ECF or Court's Electronic Filing System.

/s/ Sean H.Barrett
Attorney for Defendant Plake